

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

VS.

VENESSA R. GIRON, LICENSE # 022006

RESPONDENT

ORDER AND NOTICE OF HEARING

The Arkansas State Board of Health has authority to license and regulate the practice of lay midwifery in the State of Arkansas pursuant to the Licensed Lay Midwife Act, Ark. Code Ann. § 17-85-107. Pursuant to that provision, the Board may suspend or revoke any license issued under the Licensed Lay Midwife Act for violations of the act or regulations promulgated under it. The Arkansas State Board of Health, pursuant to the Licensed Lay Midwife Act has promulgated the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas.

Allegations of Fact

1. On March 27, 2014, Petitioner, Arkansas Department of Health, Women's Section ("Petitioner"), received a complaint that Respondent, Vanessa Giron ("Respondent"), was in violation of the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas when she performed a home delivery of a client that resulted in the infant contracting neonatal Group B Streptococcus sepsis (GBS).
2. As part of the investigation conducted by Petitioner, Respondent attended a meeting at Petitioner's office in Little Rock, Arkansas, on June 10, 2014, to gather facts and discuss the care, labor and delivery of the client in question.

3. Petitioner completed its investigation and found that there was danger to the client and baby's safety and welfare due, in part, to Respondent's non-compliance with the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas.
4. Respondent failed to follow the Protocol for Required Antepartum Care (Regulations 402) when she failed to obtain required medical records of the initial risk assessment from the Local Health Unit for her client.
5. Respondent failed to ensure a complete comprehensive medical and obstetrical history was documented in the Lay Midwife record as required by §402.02.6-8-10-12-13 when she:
 - a. Failed to obtain complete documentation or verification in the obstetrical history of the client which reflected a Group B Strep infant, Gestational Diabetes, preterm deliveries and previous pregnancy induced hypertension in her client's record;
 - b. Failed to obtain and record the required initial risk assessment prenatal lab testing results for her client (Pap test, Gonorrhea, Chlamydia, Hepatitis B, QUAD Screen);
 - c. Failed to obtain results of the ultrasound for her client;
 - d. Failed to follow the American Diabetes Association Clinical Practice Recommendations for gestational diabetes mellitus testing at 28 weeks for her client; and
 - e. Failed to establish plan of care for client history of a previous preterm birth/ labor prior to 36 week gestation.
6. Respondent failed to document if patient received routine antepartum prenatal laboratory tests and test results as required by § 402.03.9 when she failed to follow the

regulations on screening for anemia by hematocrit or hemoglobin at or near 28 weeks gestation.

7. Respondent failed to monitor maternal-fetal status during labor as required by § 403.2.02 when she failed to assess fetal heart rate, contraction duration, interval and intensity, maternal blood pressure and temperature according to the frequency requirements for the client during 1st stage of labor at the required interval of 5 1/2 hours from initial assessment to re-assessment.

8. Respondent failed to submit documentation of the complications, referrals and execution of the plan of care. She continued to provide care without establishing the required plan of care for conditions that require physician intervention (referral and consultation) at the client's initial risk assessment as required by § 406.01 when she failed to establish plan of care for client's history of a previous infant with Group B Strep.

9. Respondent failed to establish a documented plan of care with a physician or Certified Nurse Midwife (CNM) for antepartum monitoring of identified prenatal conditions, specifically for the client's history of a previous preterm birth/labor prior to thirty-six (36) weeks gestation, in violation of § 406.02.2-24 which states that previous preterm birth must be co-managed until 36 weeks.

10. Respondent failed to submit the required midwife reports on the established plan of care for continued antepartum monitoring of identified prenatal conditions in the appropriate time frame as required by § 406.2.2-24. Specifically, Respondent:

- a. Failed to submit the required report of an establish plan of care for the client's Gestational Diabetes (diagnosed by Local Health Unit on 9/24/2013, complication report submitted 3/10/14); and

- b. Failed to submit the required report of an establish plan of care for the client's GBS positive test result.
11. Respondent failed to follow protocols for conditions requiring consultation with a Physician or CNM that may require additional reports or transport to the nearest hospital if consultation is not available as required by § 407.02. Specifically, Respondent:
- a. Failed to recognize the signs and symptoms of infection throughout labor (febrile, fetal tachycardia);
 - b. Failed to identify a prolonged 1st stage of labor (more than 14 hours from onset of contractions to 4 cm); and
 - c. Failed to identify a prolonged 2nd stage of labor (more than 13 hours from 4 cm. to delivery of baby).
12. Respondent failed to immediately transport the newborn for emergency medical symptoms following delivery as required by § 409 when the newborn showed signs of respiratory distress.
13. Respondent failed to provide the medical record to the receiving physician upon emergency transport as required by § 600 when she failed to provide the hospital with the newborn's complete and accurate medical records.
14. Respondent failed to submit additional required reports to the Arkansas Department of Health, Women's Section as required by § 700 when she failed to submit the required monthly reports on complications, referrals and transports in the appropriate reporting time frame.
15. Respondent failed to comply with the standard of practice for licensing as set forth in

§ 301.04.8-11. Specifically, Respondent was not in compliance with the standard of practice due to the following:

- a. Use of advertising, consents and billing statements which misled clients to believe Respondent would provide midwifery services for women with previous cesarean sections (vaginal births after a cesarean section).
- b. Obtaining a legend drug without a prescription and administering that drug (Vitamin K) intramuscularly (IM) to the newborn in violation of the Prescription Drug or Devices Law, A.C.A. § 20-64-503.

Allegations of Law Violated

1. Ark. Code Ann. § 17-85-107 provides as follows:

- a. The State Board of Health is empowered to license lay midwives in this state pursuant to regulations established by the board to include, but not limited to:

Standards of practice for prenatal, intrapartum, and postpartum care of mother and baby Physician supervision, physician consultation, licensed nurse midwife supervision or consultation, or physician and hospital backup.

- b. The board may suspend or revoke any license issued under this chapter for violations of this chapter or regulations promulgated under this chapter.

2. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (1992), provide at § 302.04 that:

The Department may refuse to issue, may suspend or may revoke a permit for violation of State law or these Regulations.

3. Respondent violated the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas, Sections 301.04.11; 301.04.8; 402.02.6-8-10-12-13; 403.2.02; 402.03.9; 406.01; 406.02.2-24; 407.01; 407.02.2; 409; 600; 700, as described above.

ORDER

WHEREFORE, the Arkansas Department of Health and the Arkansas State Board of Health have determined that a hearing shall be conducted to determine whether Respondent's license as a lay midwife in Arkansas should be revoked or suspended. The hearing shall be conducted according to the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.; the Licensed Lay Midwife Act, Ark. Code Ann. § 17-85-101 et seq.; and the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas. **NOTICE IS HEREBY GIVEN** that a formal hearing regarding the charges and allegations set out herein will be held on October 28, 2014, at 10:00 o'clock, a.m., at the Arkansas Department of Health, Freeway Medical Building, 5800 West 10th Street, Room 906, Little Rock, Arkansas. The Respondent may be heard in person or by counsel and may offer such witnesses, affidavits and documentary evidence in defense of the above charges as may be relevant to this matter. Respondent's failure to appear at the hearing may result in immediate revocation of her license.

IT IS SO ORDERED this 8th day of October, 2014



Namvar Zohoori, M.D., Director
Center for Health Advancement

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

VS.

VENESSA R. GIRON, LICENSE # 022006

RESPONDENT

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A hearing was held on the above-styled matter before a Subcommittee of the State Board of Health (the "Board") on the 28th of October, 2014, at the Arkansas Department of Health, Freeway Medical Center, 5800 West Tenth Street, Suite 906, Little Rock, Arkansas. The Respondent, **Venessa R. Giron, License # 022006**, appeared. The Petitioner, **Arkansas Department of Health, Women's Health Section**, appeared by and through its attorneys, Reginald A. Rogers and Elizabeth Pitman. On the basis of the testimony and other evidence presented at the hearing, the Board makes the following Findings of Fact, Conclusions of Law, and Order:

Findings of Fact

1. In February, 2014, Respondent performed a home delivery of a client that resulted in the infant contracting neonatal Group B Streptococcus sepsis (GBS).
2. Respondent failed to obtain required medical records of the initial risk assessment from the Local Health Unit for her client, as required by Rule 400 of the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas.
5. Respondent failed to ensure a complete comprehensive medical and obstetrical history was documented in the Lay Midwife record as required by §402.02.6-8-10-12-13 when she:

- a. Failed to obtain complete documentation or verification in the obstetrical history of the client which reflected a Group B Strep infant, Gestational Diabetes, preterm deliveries and previous pregnancy induced hypertension in her client's record;
 - b. Failed to obtain and record the required initial risk assessment prenatal lab testing results for her client (Pap test, Gonorrhea, Chlamydia, Hepatitis B, QUAD Screen);
 - c. Failed to obtain results of the ultrasound for her client;
 - d. Failed to follow the American Diabetes Association Clinical Practice Recommendations for gestational diabetes mellitus testing at 28 weeks for her client; and
 - e. Failed to establish plan of care for client history of a previous preterm birth/ labor prior to 36 week gestation.
6. Respondent failed to document if patient received routine antepartum prenatal laboratory tests and test results as required by § 402.03.9 when she failed to follow the regulations on screening for anemia by hematocrit or hemoglobin at or near 28 weeks gestation.
7. Respondent failed to monitor maternal-fetal status during labor as required by § 403.2.02 when she failed to assess fetal heart rate, contraction duration, interval and intensity, maternal blood pressure and temperature according to the frequency requirements for the client during 1st stage of labor at the required interval of 5 1/2 hours from initial assessment to re-assessment.
8. Respondent failed to submit documentation of the complications, referrals and execution of the plan of care. She continued to provide care without establishing the required

plan of care for conditions that require physician intervention (referral and consultation) at the client's initial risk assessment as required by § 406.01 when she failed to establish plan of care for client's history of a previous infant with Group B Strep.

9. Respondent failed to establish a documented plan of care with a physician or Certified Nurse Midwife (CNM) for antepartum monitoring of identified prenatal conditions, specifically for the client's history of a previous preterm birth/labor prior to thirty-six (36) weeks gestation, in violation of § 406.02.2-24 which states that previous preterm birth must be co-managed until 36 weeks.

10. Respondent failed to submit the required midwife reports on the established plan of care for continued antepartum monitoring of identified prenatal conditions in the appropriate time frame as required by § 406.2.2-24. Specifically, Respondent:

- a. Failed to submit the required report of an establish plan of care for the client's Gestational Diabetes (diagnosed by Local Health Unit on 9/24/2013, complication report submitted 3/10/14); and
- b. Failed to submit the required report of an establish plan of care for the client's GBS positive test result.

11. Respondent failed to follow protocols for conditions requiring consultation with a Physician or CNM that may require additional reports or transport to the nearest hospital if consultation is not available as required by § 407.02. Specifically, Respondent:

- a. Failed to recognize the signs and symptoms of infection throughout labor (febrile, fetal tachycardia);
- b. Failed to identify a prolonged 1st stage of labor (more than 14 hours from onset of contractions to 4 cm); and

- c. Failed to identify a prolonged 2nd stage of labor (more than 13 hours from 4 cm. to delivery of baby).
12. Respondent failed to immediately transport the newborn for emergency medical symptoms following delivery as required by § 409 when the newborn showed signs of respiratory distress.
 13. Respondent failed to provide the medical record to the receiving physician upon emergency transport as required by § 600 when she failed to provide the hospital with the newborn's complete and accurate medical records.
 14. Respondent failed to submit additional required reports to the Arkansas Department of Health, Women's Section as required by § 700 when she failed to submit the required monthly reports on complications, referrals and transports in the appropriate reporting time frame.
 15. Respondent failed to comply with the standard of practice for licensing as set forth in § 301.04.8-11. Specifically, Respondent was not in compliance with the standard of practice due to the following:
 - a. Use of advertising, consents and billing statements which misled clients to believe Respondent would provide midwifery services for women with previous cesarean sections (vaginal births after a cesarean section).
 - b. Obtaining a legend drug without a prescription and administering that drug (Vitamin K) intramuscularly (IM) to the newborn in violation of the Prescription Drug or Devices Law, A.C.A. § 20-64-503.

Conclusions of Law

1. Ark. Code Ann. § 17-85-107 provides as follows:

- a. The State Board of Health is empowered to license lay midwives in this state pursuant to regulations established by the board to include, but not limited to:

Standards of practice for prenatal, intrapartum, and postpartum care of mother and baby Physician supervision, physician consultation, licensed nurse midwife supervision or consultation, or physician and hospital backup.

- b. The board may suspend or revoke any license issued under this chapter for violations of this chapter or regulations promulgated under this chapter.
2. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (1992), provide at § 302.04 that:

The Department may refuse to issue, may suspend or may revoke a permit for violation of State law or these Regulations.

3. Respondent violated the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas, Sections 301.04.11; 301.04.8; 402.02.6-8-10-12-13; 403.2.02; 402.03.9; 406.01; 406.02.2-24; 407.01; 407.02.2; 409; 600: 700, as described in the Findings of Fact, above.

Order

Based upon the foregoing Findings of Fact and Conclusions of Law, the State Board of Health hereby finds that the Respondent, Venessa Giron, License # 022006, shall be suspended for one-hundred and eighty (180) days, with the following conditions:

- A. Within thirty (30) days of the effective date of this order, the Respondent shall:
 1. Notify, in writing, any vendors she uses, including "In His Hands" and "Cascade" that she is not authorized to order medications that require a prescription.
 2. Notify, in writing, all midwife apprentices under her supervision that she cannot be a supervising midwife during her suspension and complete any documentation of the apprentices' clinical experiences and skills up to the effective date of this order.

3. Notify, in writing, all current Arkansas clients that her license has been suspended and that she cannot legally practice midwifery in Arkansas during the suspension period.
4. Remove all verbiage from her Arkansas consent forms, agreements, advertisements, etc., that reference a birth facility fee or assistance with vaginal birth after cesarean section (VBAC).

The Respondent shall provide proof of Compliance with these provisions to the ADH, Women's Health Section.

B. Before the end of the one hundred and eighty (180) day suspension period, the Respondent shall complete the following:

1. Take and pass a written and oral examination on the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas, which shall be administered and scored by ADH, Women's Health Section.
2. Complete at least twenty (20) hours of Section approved continuing education programs addressing the following subjects, as related to the clinical practice of midwifery:
 - a. Group B Strep (GBS)
 - b. Gestational Diabetes Mellitus
 - c. Prolonged Labor
 - d. Charting and documentation standards
 - e. Required prenatal testing
 - f. Newborn Assessment: signs of sepsis
3. Conduct a presentation for ADH, Women's Health Section staff that addresses Group B Strep and Newborn Assessment based on the continuing education curriculum outlined in B.2. of this Order, to include relevant Rules and Regulations and how they are applied. This presentation shall be scheduled with the ADH, Women's Health Section.


C. After the one-hundred and eighty (180) day suspension period has passed, and if she has successfully completed the conditions of suspension, the Respondent will be reinstated under a provisional license. In order to obtain her full license to practice, the Respondent must meet the following requirements:

1. Provide care as the primary midwife for twenty (20) prenatal care patients under the supervision of an Arkansas Licensed Lay Midwife with a minimum of three (3) years clinical midwifery experience in Arkansas, whose name and credentials are provided to ADH, Women's Health Section.

2. Perform ten (10) births in Arkansas under the direct supervision of an Arkansas Licensed Lay Midwife with a minimum of three (3) years clinical midwifery experience in Arkansas, whose name and credentials are provided to ADH, Women's Health Section.
3. Notify ADH, Women's Health Section of each new patient under your care during the provisional licensure period and submit completed prenatal risk assessments to the Section for review and approval.
4. Submit complete patient records to ADH, Women's Health Section for each patient under your care during the provisional licensure period for review and approval.
5. Submit completed reports, as required by the Rules and Regulations (to include reports of complications, transfers, referrals, labor and birth, postpartum and newborn assessments, and others as required/requested) for review and approval by ADH, Women's Health Section.

Upon successful completion of the requirements for provisional licensure, as determined by ADH, Women's Health Section, Respondent's license shall be fully reinstated.

Pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-212, the Respondent may petition for judicial review of this decision by filing a petition in the Circuit Court of any county in which the Respondent resides or does business or in Pulaski County within thirty (30) days of receipt of this Order.


Lawrence Braden, President
Arkansas Board of Health

DATE: 22 January 2015

Original

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

VS.

VENESSA R. GIRON, LICENSE # 022006

RESPONDENT

ORDER AND NOTICE OF HEARING

The Arkansas State Board of Health has authority to license and regulate the practice of lay midwifery in the State of Arkansas pursuant to the Licensed Lay Midwife Act, Ark. Code Ann. § 17-85-107. Pursuant to that provision, the Board may suspend or revoke any license issued under the Licensed Lay Midwife Act for violations of the act or regulations promulgated under it. The Arkansas State Board of Health, pursuant to the Licensed Lay Midwife Act has promulgated the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas.

Allegations of Fact

1. On October 28, 2014, a Subcommittee of the Arkansas Department of Health issued the attached Proposed Findings of Facts, Conclusion of Law, and Order, suspending Respondent's license for one hundred and eighty (180) days contingent upon completion of the requirements outlined in the order. See Exhibit A, "Proposed Findings of Fact, Conclusions of Law, and Order," attached hereto and incorporated herein.
2. On January 22, 2015, the Arkansas State Board of Health adopted the Proposed Findings of Fact, Conclusions of Law, and Order and upheld the suspension of Respondent's

License. *See* Exhibit B, "Findings of Fact, Conclusions of Law, and Order," attached hereto and incorporated herein.

3. As of September 16, 2015, well over one hundred and eighty days (180) from the date the order was issued, Respondent has not satisfactorily completed the requirements to have her provisional license reinstated. Specifically, Respondent has not done the following:

a. Submit, by the due date of February 28, 2015, the required notifications specific to Section A of the Order (Exhibit A):

1. Notify, in writing, the vendors, "In His Hands" and "Cascade," that Respondent is not authorized to order medications that require a prescription. Specifically, the ADH Women's Health Section (the Section) received incomplete documentation of Respondent's notification to vendors on April 14, 2015, fifty eight (58) days past the deadline, and only after the Section requested the information via certified mail.
2. Notify all lay midwife apprentices under Respondent's supervision that she may no longer act as a supervising midwife and complete; and submit any documentation of apprentice's clinical experience and skills up to the effective date of this order. Specifically, the Section received inadequate written documentation of Respondent's notification to the Respondent's two Lay Midwife Apprentices, on April 14, 2015, fifty eight (58) days past the deadline, and only after Women's Health requested the information via certified mail. There was no proof of receipt by the apprentices, such as a certified letter receipt or returned signature page.
3. Notify in writing, all current Arkansas clients that Respondent's license has been suspended and that she cannot legally practice midwifery in Arkansas during the

suspension period. Specifically, the Section was not provided with any documentation of when or how patients were notified that Respondent's license was suspended.

4. Remove all verbiage in Respondent's Arkansas consents, agreements, ads, etc. that reference a birth facility fee or assistance with vaginal birth after a cesarean section. Specifically, the Section was not provided with proof that the verbiage referencing a birth facility fee or assistance with delivery after a cesarean section was removed from Respondent's advertisements, consent forms, agreements, etc. Respondent's "Facebook" site, "A Mommy's Butterfly", continues to list Respondent as a Licensed Midwife in Arkansas and advertise that she offers complete midwifery care in the Northwest Arkansas area, including a Birth Center option and vaginal birth after cesarean section midwifery assistance.
- b. As a consequence of failure to comply with the documentation requirements of Section A, Respondent failed to complete or comply with all of the following requirements in Section B (Exhibit A), before the end of the one hundred and eighty (180) day suspension, including:
 1. Successfully passing a written and oral examination on the Rules and Regulations for Governing the Practice of Lay Midwifery in Arkansas that is to be administered and scored by the Section.
 2. Complete a minimum of twenty (20) hours of Section approved continuing education programs addressing the following subjects as related to clinical practice of Midwifery:
 - a. Group B Strep

- b. Gestational Diabetes Mellitus
 - c. Prolonged labor
 - d. Charting and documentation standards
 - e. Required prenatal testing
 - f. Newborn Assessment: Signs of Sepsis
3. Schedule and conduct a presentation for the ADH Section staff addressing Group B Strep and Newborn Assessment based on the continuing education curriculum as outlined above, to include relevant Rules and Regulations and how they are applied.

Allegations of Law Violated

1. Ark. Code Ann. § 17-85-107 provides as follows:
 - a. The State Board of Health is empowered to license lay midwives in this state pursuant to regulations established by the board to include, but not limited to:

Standards of practice for prenatal, intrapartum, and postpartum care of mother and baby Physician supervision, physician consultation, licensed nurse midwife supervision or consultation, or physician and hospital backup.
 - b. The board may suspend or revoke any license issued under this chapter for violations of this chapter or regulations promulgated under this chapter.
2. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008), provide at § 302.04 that:


The Department may refuse to issue, may suspend or may revoke a permit for violation of State law or these Regulations.
3. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008) provide at 301.04 that:

The Division may refuse to issue, may suspend or may revoke a license for violation of State law or these Regulations including...1. Dereliction of any duty imposed by law.

ORDER

WHEREFORE, the Arkansas Department of Health and the Arkansas State Board of Health have determined that a hearing shall be conducted to determine whether Respondent's license as a lay midwife in Arkansas should continue to be suspended. The hearing shall be conducted according to the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.; the Licensed Lay Midwife Act, Ark. Code Ann. § 17-85-101 et seq.; and the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas. **NOTICE IS HEREBY GIVEN** that a formal hearing regarding the charges and allegations set out herein will be held on **October 7, 2015, at 10:00 o'clock, a.m., in Room 906 of the Freeway Medical Building, 5800 West 10th Street, Little Rock, Arkansas.** The Respondent may be heard in person or by counsel and may offer such witnesses, affidavits and documentary evidence in defense of the above charges as may be relevant to this matter. Respondent's failure to appear at the hearing may result in immediate revocation of her license.

IT IS SO ORDERED this ____ day of September, 2015.



Patricia Scott, DNP, Director
Center for Health Advancement

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

VS.

VENESSA R. GIRON, LICENSE # 022006

RESPONDENT

FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

A hearing was held on the above-styled matter before a Subcommittee of the State Board of Health (the "Board") on the 7th of October, 2015, at the Arkansas Department of Health, Freeway Medical Center, 5800 West Tenth Street, Suite 906, Little Rock, Arkansas 72205. The Respondent, Vanessa R. Giron, License #022006, appeared. The Petitioner, the Arkansas Department of Health, Women's Health Section, appeared by and through its attorneys, Reginald Rogers and Elizabeth Pitman. On the basis of testimony and other evidence presented at the hearing, the Arkansas State Board of Health makes the following Final Findings of Fact, Conclusions of Law, and Order:

Findings of Fact

1. On October 28, 2014, a Subcommittee of the Arkansas State Board of Health issued a Proposed Findings of Facts, Conclusions of Law, and Order, suspending Respondent's license for one hundred and eighty (180) days contingent upon completion of the requirements outlined in that Order.
2. On January 22, 2015, the Arkansas State Board of Health adopted the proposed Findings of Fact, Conclusions of Law, and Order, and upheld the suspension of Respondent's license.
3. As of September 16, 2015, well over one hundred and eighty (180) days from the date the final Findings of Fact, Conclusions of Law, and Order was issued by the Board, Respondent had

not satisfactorily completed the requirements to have her provisional license reinstated. Specifically, Respondent had not complied with the following:

a. Respondent has not submitted, by the date of February 28, 2015, the required notifications specific to Section A of the Board's Findings of Fact, Conclusions of Law, and Order:

1. She had not notified, in writing, the vendors, "In His Hands" and "Cascade," that Respondent is not authorized to order medications that require a prescription. Specifically, the ADH Women's Health Section (the Section) received incomplete documentation of Respondent's notification to vendors on April 14, 2015, fifty eight (58) days past the deadline, and only after the Section requested the information via certified mail.
2. She had not notified all lay midwife apprentices under her supervision that she may no longer act as a supervising midwife, nor had she completed and submitted any documentation of apprentices' clinical experience and skills up to the effective date of the Order. Specifically, the Section received inadequate written documentation of Respondent's notification to the her two Lay Midwife apprentices on April 14, 2015, fifty eight (58) days past the deadline, and only after Women's Health requested the information via certified mail. There was no proof of receipt by the apprentices, such as a certified letter receipt or returned signature page.
3. She has not notified, in writing, all current Arkansas clients that her license has been suspended and that she cannot legally practice midwifery in Arkansas during the suspension period. Specifically, the Section was not provided with any

documentation of when or how patients were notified that Respondent's license was suspended.

4. She has not removed all verbiage in her Arkansas consents, agreements, ads, etc., that reference a birth facility fee or assistance with vaginal birth after a cesarean section (VBAC). Specifically, the Section was not provided with proof that the verbiage referencing a birth facility fee or assistance with VBAC was removed from Respondent's advertisements, consent forms, agreements, etc. Respondent's *Facebook* site, "A Mommy's Butterfly", continues to list Respondent as a Licensed Midwife in Arkansas and advertise that she offers complete midwifery care in the Northwest Arkansas area, including a Birth Center option and VBAC midwifery assistance.
- b. As a consequence of Respondent's failure to comply with the documentation requirements of Section A, Respondent failed to complete or comply with all of the following requirements in Section B of the Findings of Fact, Conclusions of Law, and Order, before the end of the one hundred and eighty (180) day suspension, including:
 1. Failing to successfully pass a written and oral examination on the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas that was to be administered and scored by the Section.
 2. Failing to complete a minimum of twenty (20) hours of Section approved continuing education programs addressing the following subjects as related to clinical practice of Midwifery:
 - a. Group B Strep
 - b. Gestational Diabetes Mellitus

- c. Prolonged labor
 - d. Charting and documentation standards
 - e. Required prenatal testing
 - f. Newborn Assessment: Signs of Sepsis
3. Failing to schedule and conduct a presentation for the ADH Section staff addressing Group B Strep and Newborn Assessment based on the continuing education curriculum as outlined above, to include relevant Rules and Regulations and how they are applied.

Conclusions of Law

1. Pursuant to Ark. Code Ann. § 17-85-107:
 - a. The State Board of Health is empowered to license lay midwives in this state pursuant to regulations established by the Board to include, but not limited to:

Standards of practice for prenatal, intrapartum, and postpartum care of mother and baby, Physician supervision, physician consultation, licensed nurse midwife supervision or consultation, or physician and hospital backup.
 - b. The board may suspend or revoke any license issued under [that] chapter for violations of [that] chapter or regulations promulgated under [that] chapter.
2. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008), provide at § 302.04 that:

The Department may refuse to issue, may suspend or may revoke a permit for violation of State law or these Regulations.
3. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008) provide at § 301.04 that:

The Division may refuse to issue, may suspend or may revoke a license for violation of State law or these Regulations including...1. Dereliction of any duty imposed by law.

4. The Subcommittee finds that the Respondent failed to comply with a duty imposed by law when she failed to meet the requirements of the January 22, 2015 Findings of Fact, Conclusions of Law, and Order issued by the Board.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the State Board of Health hereby finds that Respondent, Vanessa Giron, License # 0022006, shall have her license revoked.

Pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-212, the Respondent may petition for judicial review of this decision by filing a petition in the Circuit Court of any county in which the Respondent resides or does business or in Pulaski County within thirty (30) days of receipt of the final Order.



President
Arkansas State Board of Health

DATE: 1/28/16